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SUBJECT: SCENESETTER FOR DAS JOHN'S APRIL 4-7 VISIT TO
CAMBODIA

¶1. (SBU) Eric, your visit to Cambodia comes roughly just one month shy of a similar regional trip last year. Remarkably, in the intervening period, there have been no major bilateral problems and relations between our two countries have continued to grow. Recent positive developments and signs of strong USG commitment to Cambodia include the opening of the Peace Corps office and arrival of PC volunteers earlier this year (you will attend the swearing-in ceremony on April 4), the Navy ship visit in February (the first in three decades), the first-ever TIFA bilateral talks also in February, the announcement that Congressional restrictions on USG assistance to Cambodia would be lifted in FY07, and a visiting U.S. business mission -- the first in recent memory -- that will coincide with your stay with us. Your meeting schedule this time will be similar to last year's, with calls on both the Prime Minister and Foreign Minister. The PM will be prepared to discuss Burma with you; the MFA will likely raise APEC membership for Cambodia as well as Cambodia's desire for a UNSC seat in 2013 -- both issues remain priorities for the RGC. Nationwide Commune Council elections will have taken place before your arrival, and you will have the opportunity to discuss the preliminary results with a variety of actors. The Khmer Rouge Tribunal is currently at an impasse over disagreements between the international judges and the Cambodian Bar Association over international defense lawyer fees and accreditation with the Bar Association; this issue may not be resolved by the time of your visit.

¶2. (SBU) While we have succeeded in promoting a broader bilateral relationship with the RGC over the past year, we have not made sufficient progress in moving the RGC towards the more politically risky reforms in the democracy and governance sector for which we and other donors have been pressing over the last decade. Cambodia is also slipping on its trafficking in persons performance and our renewed and painstaking efforts to craft a productive military-to-military relationship will be imperiled if the RGC does not soon focus on our admonitions for improved vigilance and falls back to Tier 3. Despite agreement in 2006 with Washington negotiators from Treasury, State, and USDA on the outstanding bilateral debt owed to the United States, the RGC has yet to sign the proposed draft agreement. The RGC has consistently failed to finalize and pass much-needed anti-corruption legislation nor is it clear that the RGC intends to incorporate suggested changes by donors that would ensure the law meets international standards. Other key pieces of legislation (anti-TIP, counterterrorism, money laundering, wholesale revisions of the criminal and civil codes) that have been repeatedly promised to the donors and Cambodian public have seen another year of continued RGC footdragging.

13. (SBU) The US-Cambodian areas of traditional cooperation remain strong: counterterrorism and intel-sharing, MIA recovery, Amcit pedophile cases, health (HIV/AIDS and avian influenza) and education. The U.S. market for Cambodian textile exports is still a crucial part of Cambodia's economy, representing 70% of the country's exports in this key sector. The U.S. component of the garment industry represents roughly one-third of the country's overall GDP and we are Cambodia's chief trading partner. While we would also like to see more direct U.S. investment in the country, corruption and Cambodia's broken judicial system discourage many investors. Chevron is involved in Cambodia's offshore oil/gas exploration efforts, with 2009/2010 foreseen as the beginning of serious exploitation of these resources. OPIC provides assistance to a local bank for micro-financing projects and recently conducted a monitoring visit; there appears to be little Cambodian-American business interest in aiding the country's development at the moment.

Cambodia as an International Actor

14. (SBU) With the domestic political situation under the strong control of the PM's ruling party, Cambodia has begun looking outward and seeks a more visible role in international and regional affairs that is consistent with the country's limited resources and capacity. The RGC has sent peacekeepers to Sudan (a company of de-miners); during the PM's visit to Australia, Hun Sen expressed RGC interest (but no commitment as yet) in a gendarme platoon role in East Timor. Cambodia supported Guatemala's bid for the UNSC seat in 2006 and as a result of strong Japanese pressure, Cambodia has agreed to support a human rights resolution against North Korea at the UN.

15. (SBU) On Burma, the PM has taken a more critical public stance over the regime's intransigence to democratic reforms. The Cambodian National Assembly in July 2006 inaugurated a Burma Caucus that included representatives from all three parties. The participation (and blessing) of the ruling CPP was instrumental in the launch of the Caucus; previously, the PM and National Assembly Chairman Heng Samrin were reticent about being too forward leaning on Burma. Since its inauguration, however, the Burma Caucus has been largely inactive. Moreover, the Cambodian government did not back the U.S. position during late 2006 in the UN Third Committee on the human rights situation in Burma. RGC officials explained that Cambodia, similar to the position taken by most other ASEAN countries, wanted to give Burma one last chance to respond to the concerns of the international community. A senior MFA official noted that Cambodia needed to maintain a "flexible" position on Burma. During PDAS Stephens' January 2007 meeting with the PM, Hun Sen allowed that he planned to visit Burma at the regime's invitation in spring or early summer, and offered to incorporate USG views in his discussions. Your meeting with the PM will be an opportunity to compare notes on the PM's plans; we have provided a briefing paper outlining the USG position on human rights and democracy in Burma.

Keeping Political Space Open, Human Rights Are Priorities

16. (SBU) The level of political violence in Cambodia has fallen since the early 1990s, but there remain serious concerns regarding human rights and democratization. Like other countries in the region, Cambodia's leaders have used its weak and easily influenced judiciary to pursue legal cases against critics and the political opposition. While criminal defamation is no longer a viable weapon for silencing dissent, other legal provisions concerning disinformation and incitement remain on the books and have been used in the past year against journalists and others the government has wished to silence. The PM has had a very public falling out with the UNSYG's Special Rapporteur for Human Rights for Cambodia, Kenyan constitutional lawyer Yash Ghai, due to what the PM considers as unduly harsh criticism

of the human rights situation in Cambodia. The PM also suggested that the UN close its local human rights office. In addition to meetings with NGOs, you will have separate meetings with opposition leader Sam Rainsy and newly announced political leader Kem Sokha (former human rights leader jailed in December 2005 and then released on January 17) about prospects for democracy in Cambodia.

17. (SBU) The U.S. and other international observers from diplomatic missions will monitor the local commune council elections on April 1; preliminary results should be available at the time of your visit. While some diplomats have dismissed the commune elections as unimportant, commune councilors indirectly select the country's village chiefs as well as the members of the Senate. The April 1 elections are also widely viewed by the political parties as a predictor of how voters will cast their ballots in next year's national elections in July 2008. Cambodia's previous three national elections have shown improvement during each five-year cycle, with diminishing levels of political violence, but intimidation and vote-buying continue to be problematic. Media coverage is limited to the ruling party and there are no campaign finance restrictions. Prince Norodom Ranariddh's October 2006 ouster from the FUNCINPEC party, his creation of a new party (and its success in fielding commune candidates for the majority of the country's 1,621 communes in the space of a few months, and absence from the country due to politically motivated lawsuits have marred the April 1 elections. The PM and the CPP remain intent on driving members of the royal family from politics, and are likely to propose legislation prior to the 2008 elections that bars royals from politics.

Corruption Remains Endemic

18. (SBU) In 2006, Transparency International ranked Cambodia 151 out of 163 countries in its corruption perceptions index; Burma was the only country in Asia ranked lower than Cambodia. There has been continued and widespread land grabbing by government officials and the politically well-connected. Uprooted communities from outside Phnom Penh trying to seek government redress are often prevented from traveling to the city to draw media and public attention to their plights. Enactment of an anti-corruption law has dragged on for years, with the government showing little inclination to adopt legislation that would lead to strong enforcement. This failure, along with a corrupt and

politicized judiciary, has prevented Cambodia from attracting foreign direct investment. Cambodia's competitiveness ranking (103 out of 125 in 2006) is also one of the lowest in the world, again due largely to perceived systemic corruption. Rather than embrace the reforms that would garner increased investment and the new jobs that would be created, the RGC appears to be banking on the future income from its as-yet-untapped oil and gas reserves, which should come on stream after 2009. Donors are concerned that the current corrupt political environment will lead to misuse of future revenues that are badly needed to reduce poverty in the country, and you will have an opportunity to hear views from the leading IFI representatives in Cambodia on the oil/gas issue.

Khmer Rouge Tribunal Impasse

19. (SBU) The Khmer Rouge Tribunal, formally known as the Extraordinary Chambers in the Courts of Cambodia (ECCC), has obtained funding from UN member nations, and was poised to begin to issue indictments beginning in December 2006. However, the ECCC's Cambodian and international judges have had difficulties since a disastrous plenary session in November 2006 in agreeing on internal rules governing the Tribunal's functions and authorities. Meanwhile, the potential defendants continue to age, with one, Ta Mok, having died in the past year.

¶10. (SBU) In January 2006, the ECCC's internal rules review committee (comprised of international and Cambodian judges) agreed on most outstanding differences regarding the draft rules, and a second successful meeting on March 16 suggested that all points of controversy had been resolved. Nevertheless, the international judges announced in March that they would not agree to a plenary to adopt the draft rules unless the CBA agreed to rescind its suggested (and exorbitant) fee schedule for foreign defense counsel, claiming that few international lawyers would agree to pay the high rates thereby lowering the pool of available defense counsel and undermining defendant's right to competent counsel. In addition, a potential scandal hangs over the Tribunal amidst accusations of corruption and kickbacks on the Cambodian side. The international monitoring NGO, the Open Society Justice Initiative (OSJI), broke the story in February in referencing an ongoing UNDP audit, and created a firestorm of controversy within the court and with the Cambodian government. RGC threats that the government might eject the NGO from Cambodia appear to be on the wane, but donors and international judges have indicated that any RGC interference with the NGO's monitoring role could be a violation of the UN/RGC agreement establishing the Tribunal.

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